

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA)	
)	
v.)	No. 07-CR-10129-DPW
)	
RAFAEL CRISTOBAL)	

MEMORANDUM IN SUPPORT OF RELEASE

Rafael Cristobal respectfully requests that the Court consider releasing him while his Final Revocation Hearing is pending.

Mr. Cristobal's federal case originated fourteen years ago. In 2009 he was sentenced to a term of 188 months (which was reduced to time served) and supervised release of five years. In 2019 that term of supervision was reduced by one year after he successfully completed RESTART. He has been under supervision since October 2017 and with the reduction in term after RESTART he may be eligible to terminate supervision this year.

We appeared before the Court on April 28, 2021 for a detention hearing. The case was continued to May 13, 2021 for a status conference, with a directive that the parties confer regarding potential release conditions.

On May 4, 2021, counsel sent an email to the Government and the Probation Department which included a proposed release plan.¹ This release plan was created after consultation with Mr. Cristobal's therapist, Vannia Aguirre, and after Mr. Cristobal's girlfriend had navigated his reentry into the sober house in East Boston where he had previously resided.² The release plan includes

¹ Email exchange between counsel and Vannia Aguirre, and Probation Officer Kara Lightowler.

² Counsel today, May 11, 2021, confirmed with the Sober Surroundings House Manager that Mr. Cristobal has a bed available to him and is welcome to return to the home.

effectively three components:

1. That he reside at the sober house in East Boston, an address previously approved by Probation.
2. That he engage in Intensive Outpatient treatment through the North Suffolk Mental Health provider.
3. That he participate in psychiatric care as recommended by North Suffolk Mental Health

Based on their response to the email, it appears that the Probation Department does not disagree with the release and treatment plan. Where we differ is around the question of whether Mr. Cristobal should be incarcerated before he begins this treatment plan.

We ask that the Court release Mr. Cristobal not only because we have presented a viable release plan that rebuts the presumption of detention, but because incarceration at this time in particular does not serve to help Mr. Cristobal succeed as he completes this term of supervision.

At this time, given the ongoing COVID-19 crisis, any individuals in prison are very likely to experience conditions that mirror solitary confinement. Mr. Cristobal experienced this during his two week quarantine upon his arrival at the Wyatt Detention Center. For a person like Mr. Cristobal who is in the early stages of understanding the extent of his mental illness (and co-occurring substance use disorder), incarceration during this pandemic is especially problematic. “This kind of confinement creates serious psychological risks for prisoners; many of them experience panic, anxiety, rage, depression and hallucinations...”³ Mr. Cristobal has only today, for the first time, had access to psychiatric services at Wyatt. Furthermore, in a pandemic where incarcerated people are at high risk for contracting COVID-19, we should imprison only people for whom there is a tremendous danger

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<https://www.apa.org/monitor/2014/10/incarceration#:~:text=This%20kind%20of%20confinement%20creates,some%20up%20to%2025%20years>)

to the public or a situation where there is no release plan. In this case, given that none of the violations alleged by the Government involve violence or the commission of a new offense, Mr. Cristobal should be released.

We recognize that the next date for us to appear in front of Judge Woodlock is May 24. If the Court were to release Mr. Cristobal we would request a continuance of that date so that he could settle in to treatment and we could provide Judge Woodlock with more information about his treatment goals.

For those reasons, Mr. Cristobal asks this Court to release him pending the Final Revocation Hearing.

RAFAEL CRISTOBAL
By his Attorney
Respectfully submitted,

/s/ Jessica Thrall
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CERTIFICATE OF SERVICE

I, Jessica Thrall, hereby certify that this document filed through the ECF system will be sent electronically to the registered participant(s) as identified on the Notice of Electronic Filing (NEF) on May 11, 2021.

/s/ Jessica Thrall
Jessica Thrall